IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.9760 OF 2004

Anil Gopal Dharmadhikari : Petitioner

V/s.

Jagruti Shikshan Sanstha & Anr. : Respondents

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Mr.U. Warunjikar for the petitioner.

Mrs.Anita Agarwal for respondent no.2.

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CORAM : S.A. BOBDE, J.

March 17, 2005.

P.C.:

1. Rule, returnable forthwith.

Mrs.Agarwal waives service of rule on behalf of respondent no.2.

Heard by consent.

2. The petitioner has challenged the refusal of the School Tribunal for condoning the delay in filing an appeal under section 9. The petitioner moved the School Tribunal under section 9 against the alleged supersession of respondent no.2. According to the petitioner, respondent no.2 superseded him in the post of Headmaster

of the School. Admittedly, respondent no.2 is functioning as a Headmaster from 27.11.1995.

3. The present appeal is filed on 16.9.2003. It is this delay which the Tribunal has not considered appropriate to condone. I find no error of law apparent on the face of the record. The petitioner was functioning as a Headmaster sometime in the year 1995. Thereafter, he was directed to hand over charge of the post to someone else whereafter he was terminated on 2.12.1995. Against his termination, he had moved the Schoo,l Tribunal in an appeal under 9. Even at that stage, he was aware that respondent no.2 has been appointed as the Headmaster. Apart from the pleadings, this is also evident from an insertion which the petitioner made in the prayer clause, that he be reinstated as a Headmaster. Eventually, the Tribunal reinstated him not as a Headmaster but as an Asstt. Teacher. The petitioner accepted this order without any grievance. The petitioner was thus aware of his alleged supersession as Headmaster even then. The delay has arisen in the above circumstances.

4. Mr.Warunjikar, learned counsel for the petitioner, strenuously urged that the petitioner was entitled to file an appeal against the supersession as he was reinstated on

7.8.2003. It is only upon his reinstatement that he learnt that respondent no.2 has been appointed as a Headmaster and, therefore, the cause of action began only upon his reinstatement. This contention does not have a sound foundation in the facts of the case. The petitioner was aware of respondent no.2's appointment as a Headmaster and he slept over his rights, if any, for a long period. In the meanwhile, respondent no.2 has acquired rights which cannot be challenged after an inordinately long lapse of time. There is no merit in the petition which is hereby dismissed.

5. The rule stands discharged.

Sd/-

S.A. BOBDE, J.